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February 4, 2007

By fax (718-613-2345)

Hon. Robert M. Levy  
Magistrate Judge  
U. S. District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Elektra v. Rae J Schwartz 06CV3533(DGT)(RML)

Dear Magistrate Levy:

1. I was quite surprised that the RIAA sought to abuse the confidential procedure we had discussed regarding Ms. Schwartz's medical condition, which was for the purpose of determining a possible out-of-court resolution on medical grounds, and use it as a means of making an application for an expedited discovery schedule on the 'merits' of plaintiffs' alleged case, involving nonparty infant witnesses<sup>1</sup> and compulsion of the turnover of Ms. Schwartz's computer's hard drive<sup>2</sup>. As Your Honor knows, such an application was required to have been made on the record and filed with the electronic filing system. *I respectfully request that the Court file Mr. Reynolds's letter, or direct Mr. Reynolds to file it, appropriately, as it contains no confidential information of any kind. I also respectfully request permission to file the within responsive letter by electronic filing as well.*

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<sup>1</sup> Who are themselves minors and would require appointments of guardians ad litem of their own.

<sup>2</sup> Which is full of privileged communications between Ms. Schwartz and myself.

2. As to the substance of Mr. Reynolds' application, needless to say, we are unalterably opposed to such a procedure in advance of the appointment of a guardian ad litem for Ms. Schwartz, and – if the RIAA is going to pursue Ms. Schwartz's minor daughter and her friends – GAL's for them as well. And indeed once the appropriate GAL's are in place, if we are chosen by Ms. Schwartz's GAL as his or her counsel, we will likely be opposing such applications for discovery on the merits.

3. Lastly, although the letter was apparently delivered by hand delivery to your honor yesterday, on Friday, February 2<sup>nd</sup>, it was not delivered to us by such means. The only copy I've received so far (it is now Sunday, February 4<sup>rd</sup>, at 12:30 P.M.), was an email which arrived at 6:02 PM Friday night, which I did not see until Saturday at approximately noon.

Respectfully submitted,

Ray Beckerman

cc: Richard J. Guida, Esq. (Fax no. 212-451-2999)